

1
2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 PETER M. BERGNA,

7 Plaintiffs,

8 v.

9 MARSHA JOHNS, *et al.*,

10 Defendants.

Case No. 3:17-cv-00412-MMD-CLB

ORDER

11
12 *Pro Se* Plaintiff Peter M. Bergna, an inmate in the custody of the Nevada
13 Department of Corrections (“NDOC”) and currently housed at the Northern Nevada
14 Correctional Center (“NNCC”), brings this action under 42 U.S.C. § 1983. Before the Court
15 is the Report and Recommendation (“R&R”) of United States Magistrate Judge Carla
16 Baldwin (ECF No. 46) recommending that the Court grant Defendants’ motion for
17 summary judgment (“Motion”) (ECF No. 35). Plaintiff had until March 12, 2020, to file
18 objections. To date, no objection to the R&R has been filed. For this reason, and as
19 explained below, the Court adopts the R&R and grants the Motion.

20 This Court “may accept, reject, or modify, in whole or in part, the findings or
21 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
22 timely objects to a magistrate judge’s report and recommendation, then the Court is
23 required to “make a *de novo* determination of those portions of the [report and
24 recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails
25 to object, however, the Court is not required to conduct “any review at all . . . of any issue
26 that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); see also
27 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (“De novo review of the
28 magistrate judges’ findings and recommendations is required if, but only if, one or both

1 parties file objections to the findings and recommendations.”) (emphasis in original); Fed.
2 R. Civ. P. 72, Advisory Committee Notes (1983) (providing that the court “need only satisfy
3 itself that there is no clear error on the face of the record in order to accept the
4 recommendation”).

5 Nevertheless, the Court conducts *de novo* review to determine whether to accept
6 the R&R. Judge Baldwin found that Plaintiff failed to show that Defendants knowingly
7 disregarded his medical condition. (ECF No. 46 at 8–9.) Judge Baldwin determined that
8 Defendants fully addressed Plaintiff’s chronic pain management needs. (*Id.*) Judge
9 Baldwin also determined that Plaintiff failed to provide evidence that Defendants had no
10 justifiable medical reason for removing his wheelchair. (*Id.* at 10.) Because Plaintiff now
11 has a medical prescription for the wheelchair and because the wheelchair was later
12 returned to Plaintiff, Judge Baldwin found no genuine issue of material fact exists
13 regarding Defendants’ removal of the wheelchair. (*Id.*) For these reasons, Judge Baldwin
14 recommends that Defendants’ Motion be granted. (*Id.* at 11.) Upon reviewing the R&R and
15 underlying briefs, this Court finds good cause to adopt Judge Baldwin’s recommendation
16 in full.

17 It is therefore ordered that Judge Baldwin’s Report and Recommendation (ECF No.
18 46) is adopted in its entirety.

19 It is further ordered that Defendants’ motion for summary judgment (ECF No. 35)
20 is granted.

21 The Clerk is directed to enter judgment in accordance with this order and close this
22 case.

23 DATED THIS 20th day of March 2020.

24
25 

26
27 MIRANDA M. DU
28 CHIEF UNITED STATES DISTRICT JUDGE